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NOT TO BE PUBLISHED IN OFFICIAL REPORTS

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SIXTH APPELLATE DISTRICT

THE PEOPLE, Plaintiff and Respondent, v. ALFONSO QUINTERO CASTANEDA, Defendant and Appellant.	H040390 (Santa Cruz County Super. Ct. No. WF00725)

After a five-day trial, a jury convicted defendant Alfonso Quintero Castaneda of one felony count of assault with a firearm (Pen. Code, § 245, subd. (a)(2); all further undesignated statutory references are to the Penal Code), one felony count of false imprisonment by violence (§ 236), two felony counts of criminal threats (§ 422), and one misdemeanor count of exhibiting a firearm (§ 417, subd. (a)(2)). The jury found enhancement allegations that defendant personally used a firearm when he committed the assault, the false imprisonment, and one of the criminal threats to be true (§§ 12022.5, subds. (a), (d); 1192.7, subd. (c)(8)). The jury also acquitted defendant of one count of first degree burglary (§ 459). The trial court sentenced defendant to 14 years eight months in prison, ordered victim restitution, and imposed fines and fees.

We appointed counsel to represent defendant in this court. Appointed counsel filed an opening brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), which

stated the case and the facts, but raised no specific issues on appeal. We notified defendant of his right to submit written argument in his own behalf within 30 days. Defendant has filed a supplemental brief that raises five issues on appeal, which we will describe further under the heading "Discussion." After reviewing the entire record, we conclude that none of the issues raised in defendant's supplemental brief has any merit and that there is no arguable issue on appeal. We will therefore affirm the judgment.

FACTS

I. Prosecution's Case

In July 2009, defendant was living in a two-bedroom apartment in Watsonville with R.C., their three children (then ages one, three, and six), and R.C.'s two children from a previous relationship (G.S. and O.S.).

Defendant and R.C. had been in a dating relationship for about seven years. By July 2009, things were not going well and R.C. had asked defendant to move out several times. R.C. described the relationship as "extremely bad" at that time. R.C. testified that defendant had an alcohol problem, had no income, and had been accusing her of cheating. On cross-examination, however, R.C. admitted that defendant worked for a company called Ramco.

A. Criminal Threats and Exhibiting a Firearm on July 15, 2009

R.C. testified that she got home from work after 11:00 p.m. on July 15, 2009. She was 15 to 20 minutes late because she had stayed at work to complete some paperwork. When she got home, she found defendant drinking. He was "annoyed by her lateness" and accused her of cheating on him. An argument ensued and R.C. asked defendant to leave. Their apartment was on the second story, above their garage. R.C. heard defendant go down to the garage and thought he was going to sleep there, as he had done

before. R.C. checked on the children. She heard defendant come back up the stairs and return to the living room.

Defendant and R.C. continued to argue in the living room. R.C. saw that defendant had a pistol in his hand. Defendant said he was not going to leave, so R.C. asked him to let her leave with the children. He said no one was leaving the apartment. Defendant kept the gun in his hand, but did not point it at R.C., who was terrified. At that point, R.C. said she was going to call the police. Defendant said she "would see what would happen if [she] tried to leave." "Knowing his aggressiveness," she assumed he would kill her or hurt some of the children.

R.C.'s son G.S.—who was 13 years old at the time—testified that he heard defendant and R.C. arguing. Around 1:00 a.m., he heard R.C. ask defendant to leave with his gun. G.S. thought his mother was in danger, so he called the police using his cell phone. For his own safety, he stayed in his room, so he did not see the gun.

R.C. testified that both she and defendant saw a police officer's flashlight outside their living room window. Defendant then fled out the back door, which was in the kitchen.

R.C. spoke with the police officer and obtained an emergency protective order. She did not feel safe in her apartment, so she and the children spent the rest of the night with one of her female friends. The following day, R.C. was afraid to return to the apartment, so she took the older children to their father's home; she and the younger children stayed in a motel.

B. Burglary, Assault with a Firearm, False Imprisonment, and Criminal Threats on July 17, 2009

R.C. returned to the apartment on July 17, 2009, because she could no longer afford to stay in a motel and had nowhere else to go. She was very scared, but believed she had no other option. After the July 15 incident, R.C. bought a cell phone for her

protection. She entered the apartment through the back door and told her three younger children to wait in the kitchen while she checked and made sure defendant was not there.

R.C. went into the first bedroom, where her older children slept, and saw nothing. Suddenly defendant stepped out of the closet and pointed the same pistol at her. The police had not been able to locate defendant, so he had not been served with the restraining order. R.C. told him she had obtained a restraining order and said he could not be there. Defendant became enraged and told her to remove the restraining order and any charges she had filed against him; he said if she did not, she "would see what would happen to her." R.C. asked defendant to leave. She started to back out of the room slowly and tried to get the cell phone out of her pocket to call for help.

The children could see into the first bedroom from the kitchen. R.C. did not want the children to see defendant shoot her, so she ran into the second bedroom, where the children could not see them. Defendant followed her. R.C. was unable to get the cell phone out of her pocket and left it in her pocket so defendant would not take it. Defendant closed the door to the second bedroom, which R.C. shared with defendant and their three children.

R.C. struggled with defendant. Defendant grabbed her by the hair near the foot of the children's bunk bed. He pushed her to the floor; he held her down with one hand and held the gun against her head with the other hand. R.C. was shouting, hoping someone would hear her. Defendant said something like "that's where [her] life was going to be finishing" and pulled back the slide at the top of the gun. She asked him to think about the kids, "they are going to be alone." Defendant fired the gun, but the bullet did not hit her. The sound of gunfire resonated in her ear; then R.C. heard the children shouting and crying and someone knocking at the back door.

Defendant opened the bedroom door. Defendant's sister was at the back door. Defendant opened the back door and fled. R.C. called the police. After this incident,

R.C. stayed in a shelter with her children; she returned to the apartment once to get their things.

Watsonville Police Officer Edmundo Rodriguez testified that he responded to a report of a domestic disturbance at defendant's residence at around 9:45 a.m. on July 17, 2009. R.C. was crying and shaking. Officer Rodriguez examined the second bedroom and found the following physical evidence: (1) a spent 9 mm luger casing on the carpet; (2) a bullet hole in the foot of the bunk bed; (3) entrance and exit holes from the bullet in the mattress; (4) a bullet hole in the wall; and (5) the spent bullet in the sheetrock. The prosecution's evidence included photographs of each of these items. The police searched for, but never located, defendant.

C. Telephone Call on July 30, 2009 (Uncharged Threat)

R.C. testified that defendant called her at work at 11:30 p.m. on July 30, 2009, and they argued about a pick-up truck that R.C. wanted to sell. (R.C. could not recall who owned the truck.) Defendant told her she should not even think about selling the truck and he threatened to kill her. He said he knew where she was all the time; he knew she had gone to church the day before; and when everything calmed down, he was going to kill her. R.C. was so terrified, she could not continue working and called the police.

D. Prior Domestic Violence Incident Involving R.C. in January 2004

R.C. testified that in January 2004, shortly after their first child was born, she and defendant argued after he found a letter from her ex-husband. Defendant accused her of cheating on him. He hit her in the face, hit her on the arm with a baby carrier, and twisted one of her fingers. On cross-examination, R.C. stated that they both ended up on the floor, wrestling, and that she scratched defendant on the neck while trying to defend herself.

Watsonville Police Officer Lourdes Gombos investigated this incident. She testified that the parties had the following injuries: R.C. had scratches on her arms and left cheek, bruises on her arm and elbow, and a swollen finger; defendant had a five-inch scratch on his abdomen and a one-inch scratch on his neck. As a result of this incident, defendant was convicted of "felony corporal injury to the mother of his child" (§ 273.5).

E. Prior Domestic Violence Incident Involving Defendant's Ex-Wife (L.Q.) in May 1999

In December 1999, defendant was convicted of "felony corporal injury to the mother of his child" (§ 273.5) based on an incident that occurred on May 5, 1999, involving his ex-wife, L.Q.

F. Subsequent Domestic Violence Incident Involving A.F. in May 2013

After July 2009, defendant relocated to the Los Angeles area, where he met A.F. A.F. testified that they were in a relationship for two and one half years and had a son together in late 2012. Defendant worked two jobs to provide for them and for A.F.'s daughter from a prior relationship.

On May 19, 2013, defendant and A.F. were at a party where defendant saw A.F.'s cousin's boyfriend greet A.F. with a kiss on the cheek. After the party, defendant and A.F. argued; he said people might think she was a "whore" for allowing a man to greet her that way. The argument got physical and A.F. called the police. At the trial in this case, however, A.F. could not recall anything that she reported to the police, even after the prosecutor attempted to refresh her recollection with the police report. A.F. admitted that she did not want to testify against defendant.

Southgate Police Officer Edward Camacho testified that at 12:50 a.m. on May 19, 2013, he responded to a domestic violence call at the home defendant shared with A.F. A.F. was crying and visibly upset; she told the officer defendant had grabbed her face;

tried to cover her eyes, nose and mouth; and had said, "You don't know me and what I can do." A.F. also said that when she pulled away, defendant pulled her hair twice. Defendant had fled the scene; he was arrested that night in a parking lot. In late May 2013, defendant was convicted of "misdemeanor corporal injury to the mother of his child" (§ 273.5) arising from the incident involving A.F. and was then transferred to the Santa Cruz County jail to face the charges in this case.

II. Defense Case

Defendant did not testify.

Melissa Contreras testified that in July 2009, she lived next door to the apartment building where defendant lived with R.C. and their children; there was one apartment between Contreras's house and defendant's apartment. She saw defendant and his children almost every day. Contreras recalled seeing a few police vehicles at the apartment building one day in July 2009. She testified that for about a week and a half before that day, she had not seen defendant. Contreras also testified that about two weeks before the July 17, 2009 incident, she was in her backyard and saw R.C. kissing and embracing another man (not defendant) on her second story patio. Contreras admitted that she had a felony conviction for kidnapping and a misdemeanor conviction for obtaining another person's identity and that defendant's niece was her friend.

On cross examination, R.C. denied (1) dating anyone other than defendant in July 2009, and (2) ever kissing a man who was not defendant on her back stairs. She also testified that she never saw defendant again after July 17, 2009. R.C. denied visiting defendant with her children in Los Angeles in September 2010. However, she did attend defendant's cousin's quinceañera in Los Angeles at that time. Defendant's family had invited her and the children. She went to the party and saw defendant there. She had no idea he was going to be there.

In closing argument, defense counsel attacked R.C.'s credibility and argued that defendant was not at the apartment on July 17, 2009.

PROCEDURAL HISTORY

The prosecution filed its original complaint on July 20, 2009. In addition to some of the charges enumerated above, the original complaint and two amended complaints charged defendant with one count of attempted premeditated murder (§§ 664, 187, subd. (a)). After a two-day preliminary hearing in July 2013, the court concluded that there was insufficient evidence to hold defendant to answer on the attempted murder charge. In spite of that ruling, when the prosecution filed the information in August 2013, it charged defendant with attempted murder in addition to the charges enumerated above.

Defendant filed a motion to set aside the attempted murder charge under section 995, arguing that (1) it was barred by the magistrate's finding that there was no evidence of an intent to kill, and (2) there was insufficient evidence of attempted premeditated murder. At most, defendant argued, he acted on impulse to terrorize R.C. The prosecution opposed the motion. The court granted defendant's motion and the case went to trial without the premeditated attempted murder charge.

After trial, the probation officer submitted a report, which reviewed defendant's current crimes and criminal history. In addition to the domestic violence convictions presented at trial, defendant's history included the following misdemeanor convictions: (1) two incidents of possession of a loaded firearm in a vehicle (§ 12031, subd. (a)); (2) failure to stop after a motor vehicle accident (Veh. Code, § 20002, subd. (a)); (3) theft (§ 484); (4) fraudulently obtaining property of another (§ 532, subd. (a)); and (5) driving under the influence (Veh. Code, § 23152, subds. (a), (b)). Defendant also had prior felony convictions for possession of a controlled substance (Health & Saf. Code, § 11350, subd. (a)) and possession of a firearm by a felon (§ 12021, subd. (a)). The probation officer recommended a sentence of 16 years in prison. The prosecution

submitted a sentencing memorandum, which also recommended 16 years in prison. Defendant submitted 18 letters from friends and family members to the court requesting leniency, and three people testified on defendant's behalf at the sentencing hearing.

The court sentenced defendant to 14 years eight months in prison and ordered defendant to pay a number of fines and fees.

DISCUSSION

We begin by addressing the points raised in defendant's supplemental opening brief.

I. Sufficiency of the Evidence to Prove Assault on July 17, 2009

Defendant argues that there was insufficient evidence to prove his conviction for assault. He contends R.C. falsely accused him of assault because she wanted to be with a younger man. Defendant attacks R.C.'s credibility and focuses on certain disputed facts and inconsistencies in the evidence.

In reviewing a claim of insufficient evidence, this court reviews the whole record in the light most favorable to the prosecution to determine whether the record discloses substantial evidence to support the conviction. (*People v. Halvorsen* (2007) 42 Cal.4th 379, 419; *People v. Hillhouse* (2002) 27 Cal.4th 469, 496; *People v. Combs* (2004) 34 Cal.4th 821, 849.) "Substantial evidence" is evidence that is "reasonable, credible, and of solid value" such that a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. (*People v. Johnson* (1980) 26 Cal.3d 557, 578.) "An appellate court must accept logical inferences that the jury might have drawn from the evidence even if the court would have concluded otherwise." (*People v. Combs*, *supra*, at p. 849.)

Defendant notes that R.C. testified on direct examination that defendant was not contributing economically to the household, but later acknowledged on cross-examination that he was working for a company called Ramco. Defendant relies on

Contreras's testimony that she saw R.C. kissing another man on the back patio, which R.C. had denied doing. Defendant also argues that while R.C. testified that defendant displayed a gun on July 15, 2009, G.S.—who never left his room—testified that he saw no gun.

None of these disputed facts and inconsistencies show that the prosecution did not prove assault beyond a reasonable doubt. Although R.C. admitted that defendant was working for Ramco, there was no evidence regarding the amount of money he earned, whether he worked there full time or part time, whether the work was regular or occasional, or how much of his income he contributed to the household. Thus, the evidence that he worked for Ramco was not inconsistent with R.C.'s testimony that defendant was not contributing income to the household. Moreover, as the jury was instructed, it was up to the jury to assess the witnesses' credibility, to determine the facts, and to decide what effect, if any, to give to inconsistencies in the evidence or when the jury finds a witness has been untruthful. (See CALCRIM No. 226.) And, even if it found that R.C. testified falsely about whether defendant was working, the jury was entitled to believe her testimony regarding the assault on July 17, 2009. (*Ibid.*) Likewise, it was up to the jury to resolve the factual dispute between the testimony of R.C. and Contreras on the question whether R.C. had kissed another man on the back patio and the impact of that evidence on the charged crimes.

The purported discrepancy between the testimony of R.C. and G.S. about whether defendant displayed a firearm on July 15, 2009, is irrelevant to the question whether there was substantial evidence to support the jury's finding of an assault on July 17, 2009 (two days later) beyond a reasonable doubt. We say "purported discrepancy" because we do not believe the evidence cited was inconsistent. R.C. testified that defendant had a gun in his hand when he returned to the apartment from the garage. Her son testified that he did not *see* the gun because he never left his room, but he *heard* his mother say something about a gun. Thus, rather than contradict his mother's testimony, G.S.'s testimony

corroborated it. Having reviewed the entire record, we conclude that there was substantial evidence to support the jury's finding on the assault count.

II. Sufficiency of the Evidence that Defendant Used a Gun During the Assault

Defendant challenges the sufficiency of the evidence to support the jury's finding on the gun enhancements. Defendant argues that the police did not find a gun in his possession. (Presumably he means when they arrested him almost four years after the assault.) He acknowledges that the police investigation uncovered physical evidence that he had used a gun, including the bullet casing, bullet holes in the foot of the bunk bed, the mattress, and the wall, as well as the spent bullet. But he faults the police for not interviewing his children (ages six and under) or the neighbors. Defendant also relies on his mother's testimony that "[h]e wasn't there anymore" and "[h]e had gone" when the police were there in July 2009, and on Contreras's testimony that she had not seen defendant for a week and an half prior to the July 17, 2009 incident.

"In considering a challenge to the sufficiency of the evidence to support an enhancement, we review the entire record in the light most favorable to the judgment to determine whether it contains substantial evidence—that is, evidence that is reasonable, credible, and of solid value—from which a reasonable trier of fact could find the defendant guilty beyond a reasonable doubt. [Citation.] We presume every fact in support of the judgment the trier of fact could have reasonably deduced from the evidence. [Citation.] If the circumstances reasonably justify the trier of fact's findings, reversal of the judgment is not warranted simply because the circumstances might also reasonably be reconciled with a contrary finding. [Citation.] 'A reviewing court neither reweighs evidence nor reevaluates a witness's credibility.' " (*People v. Albillar* (2010) 51 Cal.4th 47, 59-60.)

In this case, there was substantial evidence that supported the jury's finding on the gun enhancement. R.C. testified that defendant pointed a gun at her, held it against her

head, and fired it. The police officer examined the room and found a bullet casing, bullet holes, and the spent bullet. The physical evidence corroborated R.C.'s testimony. That there was contrary evidence that defendant was not present on July 17, 2009, does not mean that there was not substantial evidence to support the jury's finding on the gun enhancement. It was up to the jury to decide whether it believed R.C.'s testimony or the testimony of defendant's mother and Contreras. We therefore reject this contention.

III. Admission of Evidence of Uncharged Acts of Domestic Violence and Criminal Threats Did Not Violate Defendant's Right to Due Process

Defendant argues that the admission of evidence of uncharged acts that occurred on May 15, 1999 (domestic violence involving L.Q.), January 30, 2004 (domestic violence involving R.C.), July 30, 1999 (uncharged threats against R.C.), and May 19, 2013 (domestic violence involving A.F.) under Evidence Code sections 1109 and 1101 violated his federal constitutional right to due process. Defendant contends his conviction must be reversed because if this evidence had not been admitted, it is likely the jury would not have believed R.C. regarding the charged offenses.

Evidence Code section 1109, subdivision (a)(1), provides in part: "in a criminal action in which the defendant is accused of an offense involving domestic violence, evidence of the defendant's commission of other domestic violence is not made inadmissible by Section 1101 if the evidence is not inadmissible pursuant to Section 352." Evidence Code section 1101 provides that, subject to certain exceptions, "evidence of a person's character or a trait of his or her character (whether in the form of an opinion, evidence of reputation, or evidence of specific instances of his or her conduct) is inadmissible when offered to prove his or her conduct on a specified occasion." But under Evidence Code section 1101, subdivision (b), "evidence that a person committed a crime, civil wrong, or other act" is admissible "when relevant to prove some fact (such as

motive, opportunity, intent, preparation, plan, knowledge, identity, absence of mistake or accident, . . .) other than his or her disposition to commit such an act."

"Domestic violence is but one of the areas in which the rules of evidence have been relaxed in recent years. [Evidence Code section] 1109, . . . allows admission of prior incidents of elder abuse and child abuse when the defendant is currently charged with a like offense, and [Evidence Code] section 1108 provides a similar evidentiary exception for past commission of sexual offenses when the defendant is being tried for a sexual offense." (*People v. Johnson* (2010) 185 Cal.App.4th 520, 528-529 (*Johnson*) "These statutes are remarkable not because they allow testimony about prior misconduct, but because they allow the jury to draw propensity inferences from the prior acts. (Compare § 1101 with §§ 1108, 1109.)" (*Johnson*, at p. 529.) "Notably, however, each of these [statutes] contains the same conditional language, namely, that such evidence is admissible only 'if the evidence is not inadmissible pursuant to Section 352.' (§§ 1108, subd. (a), 1109, subd. (a)(1), (2) & (3).) "Thus, there is an overriding safety valve built into each statute that continues to prohibit admission of such evidence whenever its prejudicial impact substantially outweighs its probative value. (§ 352.) It was precisely the incorporation of this safeguard that led the Supreme Court in *People v. Falsetta* (1999) 21 Cal.4th 903, 917 . . . (*Falsetta*) to uphold the constitutionality of section 1108 against" a due process challenge. (*Johnson*, at p. 529.) And although the California Supreme Court has not specifically ruled on the constitutionality of Evidence Code section 1109, the Courts of Appeal "have uniformly followed the reasoning of *Falsetta* in holding section 1109 does not offend due process." (*Johnson*, at p. 529 [1st Dist./Div. 2], citing *People v. Cabrera* (2007) 152 Cal.App.4th 695, 703-704 [4th Dist./Div. 1]; *People v. Hoover* (2000) 77 Cal.App.4th 1020, 1027-1028 [4th Dist./Div. 3]; *People v. Johnson* (2000) 77 Cal.App.4th 410, 417-420 [3d Dist.]; and five other cases from the First District.) We see no reason here to depart from this legal authority.

Defendant relies on two federal appellate court cases: *United States v. Aldrich* (8th Cir. 1999) 169 F.3d 526 and *United States v. Moore* (7th Cir. 1997) 115 F.3d 1348. Neither of these cases reviews a due process challenge to the evidentiary issues presented. Thus, they do not support defendant's contention.

IV. The Admission of Exhibit 20 Did Not Violate Defendant's Sixth Amendment Right of Confrontation

Both parties made motions in limine regarding evidence of other acts of domestic violence; the prosecution sought to admit such evidence and the defense sought to exclude it. The prosecution also moved in limine to be able to use certified copies of the records of conviction in defendant's other domestic violence cases. In his motion, defendant acknowledged that there were multiple acts of domestic violence involving his ex-wife, L.Q., between May 23, 1999, and July 6, 1999, and that she had reported "to police that he would take out [a] rifle each night and force her to have sex with him." According to the prosecution's in limine motion, defendant would "grab the rifle and tell [L.Q.] if she didn't have sex with him, he would kill her." Charges were filed and defendant was convicted by plea of one count of corporal injury on a cohabitant (§ 273.5) and one count of possession of a firearm by a felon (§ 12021, subd. (a)).

In ruling on the motions, the court in this case indicated that it would allow evidence of four separate incidents involving L.Q. and that the prosecution could use both witness testimony and records of the conviction to prove the prior acts of domestic violence. Defense counsel objected that the facts involving L.Q. were "much too graphic and prejudicial . . . her statement is that he would take out this rifle each night and force her to have sex," which did not occur with R.C. The prosecutor stated that L.Q. might "be more comfortable not talking about the rape allegations" and agreed that she would not bring in evidence of rape or forced sex. The court ruled that L.Q. would not be allowed to testify about forced sex or rape and that evidence of the conduct involving

L.Q. would come in under Evidence Code sections 1109 (for propensity) and 1101 (for motive, intent, and common scheme or plan).

Ultimately, L.Q. did not testify. And rather than bring in certified copies of the record of defendant's 1999 convictions, the prosecutor proposed using a demonstrative exhibit (Exhibit 20), which set forth the following bare facts regarding the convictions involving L.Q.: "Santa Cruz County convicted on 12/2/1999 of P.C. 273.5, Felony Corporal Injury to the Mother of his Child, [L.Q.]. and PC 12021(a)(1), Felony Possession of a Firearm, from an incident occurring on May 15, 1999 in case S9-09135." The sanitized language in Exhibit 20 did not disclose the facts underlying the domestic violence conviction or that the section 12021 conviction was for being a felon in possession of a firearm. The court admitted Exhibit 20. It was the only evidence of the prior domestic violence involving L.Q.

Defendant argues that the court violated his Sixth Amendment right of confrontation by admitting Exhibit 20 because it was testimonial under *Crawford v. Washington* (2004) 541 U.S. 36 since L.Q. did not testify. *Crawford* holds that no prior testimonial statement made by a declarant who does not testify at trial may be admitted against the defendant unless the declarant is unavailable to testify and the defendant had a prior opportunity to cross-examine him or her. (*Id.* at pp. 59, 68.) Exhibit 20 is a bare statement of the charges to which defendant pleaded guilty or no contest in 1999. The only underlying facts it contains are the victim's name and the date of the offense. Although it has been held, in limited circumstances, that guilty pleas and other formal statements admitting guilt are testimonial under *Crawford*, that rule applies only when the plea is made by someone other than the defendant and the plea is later introduced to prove the defendant's guilt. (*Crawford*, at p. 64; see e.g. *Kirby v. United States* (1899) 174 U.S. 47, 53-60; *United States v. McClain* (2d Cir. 2004) 377 F.3d 219, 222; *State v. Tollardo* (N.M. 2012) 275 P.3d 110.) Here, the evidence at issue relates to defendant's

own plea; therefore, the admission of Exhibit 20 did not violate defendant's Sixth Amendment right of confrontation.

V. Alleged Ineffective Assistance of Counsel

Defendant argues that his trial counsel was ineffective because she failed to object to the admission of Exhibit 20. But the record reflects that counsel did object to the subject matter underlying Exhibit 20 on numerous grounds, both in limine and during trial. The objections included that the evidence violated defendant's rights to a fair trial, to due process, under the confrontation clause, and his right to effective assistance of counsel. Furthermore, as we have stated, the admission of Exhibit 20 did not violate defendant's rights to due process or the Confrontation Clause. We therefore reject defendant's contention that his trial counsel was ineffective by failing to object to the admission of Exhibit 20.

VI. Conclusion

The issues raised in defendant's supplemental brief are without merit. We have reviewed the entire record pursuant to *Wende*, *supra*, 25 Cal.3d 436. Based upon that review, we conclude that there is no arguable issue on appeal.

DISPOSITION

The judgment is affirmed.

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Márquez, J.

WE CONCUR:

_____
Bamattre-Manoukian, Acting P. J.

_____
Grover, J.